

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

STEPHANIE J. MALONEY,)
EVERETTE D. MALONEY, and ALL)
OTHERS SIMILARLY SITUATED)
)
Plaintiffs,)
) CIVIL ACTION FILE
v.)
) NO. 2:20-cv-00191-SCJ
TALLULAH RIVER CO., INC.;)
RANDOLPH JACKSON; PATRICIA)
JACKSON; RIVER FALLS AT THE)
GORGE, INC.; DANA PACCIOTTI;)
SHEA SMITH; ROBERT GAYLE;)
TORRI GAYLE; and WINDY SKY)
RENTALS LLC,)
)
Defendants.)

**MOTION TO DISMISS
BY DEFENDANTS TALLULAH RIVER CO., INC.,
RANDOLPH JACKSON, PATRICIA JACKSON, ROBERT GAYLE,
TORRI GAYLE, AND WINDY SKY RENTALS LLC**

Defendants Tallulah River Co., Inc., Randolph Jackson, Patricia Jackson, Robert Gayle, Torri Gayle, and Windy Sky Rentals jointly move to dismiss Plaintiffs' Complaint under Fed. R. Civ. P. 12(b)(6) and 9(b). The Complaint alleges a breach of contract, fraud, aiding and abetting fraud, and federal RICO claims. The accompanying brief, however, shows that each of these claims fails to

state a claim upon which relief can be granted. Moreover, the fraud, aiding and abetting fraud, and federal RICO claims specifically lack the particularity and plausibility required by law.

Finally, for the reasons stated in Co-Defendants' Motion to Dismiss by River Falls at the Gorge, Inc., Dana Pacciotti, and Shea Smith, which are incorporated herein, all of these claims are barred by res judicata due to the prior state court litigation and trial, referred to in the Complaint as the "Related Action." As a result, the Court should dismiss the Plaintiffs' Complaint in its entirety.

Respectfully submitted, this 25th day of September 2020.

CONLEY GRIGGS PARTIN LLP

/s/ James T. Cox
RANSE M. PARTIN
Georgia Bar No. 556260
JAMES T. COX
Georgia Bar No. 296191

4200 Northside Parkway, N.W.
Building One, Suite 300
Atlanta, Georgia 30327-3007
Phone: 404-467-1155
Fax: 404-467-1166
ranse@conleygriggs.com
james@conleygriggs.com

*Counsel for Defendants Tallulah River
Co., Inc., Randolph Jackson, Patricia
Jackson, River Falls at the Gorge, Inc.,
Dana Pacciotti, and Shea Smith*

HURT STOLZ, P.C.

James W. Hurt, Jr.

Georgia Bar No. 380104

1551 Jennings Mill Road

Unit 3100B

Watkinsville, Georgia 30677

Phone: 706-395-2750

Fax: 706-996-2576

jhurt@hurtstolz.com

*Attorney for Defendants Robert Gayle,
Torri Gayle, and Windy Sky Rentals, LLC*

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the foregoing **Motion to Dismiss by Defendants Tallulah River Co., Inc., Randolph Jackson, Patricia Jackson, Robert Gayle, Torri Gayle, and Windy Sky Rentals LLC** by using the Court's CM/ECF filing system which automatically serves all counsel of record.

This 25th day of September, 2020.

/s/ James T. Cox

James T. Cox